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EXAMINER
JOO, JOSHUA

ART UNIT	PAPER NUMBER
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NOTIFICATION DATE	DELIVERY MODE
03/30/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>14 January 2011</u>.
2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1,7-9,15-17 and 23-32</u> is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) <u>1,7-9,15-17 and 23-32</u> is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on <u>03 June 2005</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All   b) ☐ Some * c) ☐ None of:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

Detailed Action

This Office action is in response to Applicant's communication filed on January 14, 2011.

Claims 1, 7-9, 15-17, 23-32 are pending in the application.

Response to Arguments/Remarks

Applicant's arguments filed January 14, 2011 have been fully considered but they are not persuasive.   Applicant argued that:

(1) Zhou says nothing of whether the software comprises applications and if so, whether the applications are organized in groups.

In response, Zhou teaches,

"The task is typically a download of a new software application, an upgrade of an existing software application, a patch, or a file." (Paragraph 0030)

"Each channel has unique channel identification. For each channel, the stored software and file information includes characteristics for the required or optional software or files of the channel, such as version, software or file size, and operating system required for the software." (Paragraph 0021)

Zhou teaches that the recited software could be an application.   Zhou also teaches of associating software with channels. When new software is identified, the new software is also associated with a channel and a notification of the new software is sent to clients of the channel.

(2) Zhou does not state that the publishing is conditional upon a new application being added to a group of applications associated with a selected group of wireless communication devices. The responsibility for determining whether the message is relevant to the user falls upon an intelligent agent. Zhou appears to contemplate a "broadcast" methodology whereby new messages regarding updates, versions, software, are sent to all client systems.

In response, Zhou teaches,

"Publisher 112 receives information for publication from communications interface 114 or crawler 125 that are used for administration and publishes the information to the appropriate channels. A channel, as used herein, refers to a group of client system users 104, 106 that share common software and/or file requirements." (Paragraph 0015)

"Publisher 112 transmits published information to message broker 116. Message broker 116 publishes the messages to client systems that are listening in to registered channels." (Paragraph 0017)

"As described above, the software and file distribution management system provides certain automation to the maintenance, installation, and upgrade processes associated with groups (channels) of computer users." (Paragraph 0028)

"The intelligent agent at client system 104 listens to registered channels at step 204. At step 206 it is determined whether there are any new messages (e.g., new updates, versions, software) that are required for the channel in which the client system belongs." (Paragraph 0029)

As shown by the cited passages (underlined for emphasis), Zhou teaches of clients registering to channels. A host system publishes information to appropriate channels and clients that are registered in the appropriate channels receive the information. Zhou teaches of sending notifications to clients registered in channels and not to all clients as argued by the Applicant. Zhou does not use a "broadcast" methodology. As cited above, Zhou teaches of sending messages notifying a client when new software is available for the channel and when the client has registered the channel.

Zhou also teaches that an agent listens to a channel and receives message(s) on the channel. The agent determines whether the message is applicable to the client (Paragraph 0024). The agent determines whether new software indicated in the message is required, which may depend on whether software is already installed, not to be installed as requested by a user, or the new message is not associated with the channel. Zhou is suggesting that while a message indicating new software will be sent to a registered channel, a client may not always be notified as the new software indicated in the message will not always be installed and/or required on the client. The claims are directed to transmission of a message when new application is available at a server, which is as taught by Zhou.

(3) Zhou appears to adopt a "broadcast" messaging methodology, and in contrast, Chenelle sends its client notifications to a targeted group of client computers. It is improper to combine the references where the references teach away from their combination.

In response, as explained above, Zhou teaches of sending messages to groups and does not appear to teach a "broadcast" messaging methodology.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 9, 17, 25-31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chenelle et al. US Publication No. 2003/0204842 (Chenelle hereinafter.), in view of Shimakawa et al. US Patent No. 6,502,124 (Shimakawa hereinafter) and Zhou et al. US Publication No. 2005/0125525 (Zhou hereinafter).

As per claim 1, Chenelle teaches substantially the invention as claimed including a method of facilitating wireless communication device awareness of the availability of new server-side applications, said method comprising:

transmitting a message over a wireless connection to a set of wireless communications devices indicating that said new application is available (Paragraph 0031. Laptops. Paragraphs 0048-0049. Notification to client computers in group indicating a new program. Paragraph 0035. Programs on management computer.),

wherein said set of wireless communications devices is one of a plurality of predefined groups of

multiple wireless communications device in communication with said server, said one predefined group

being selected from said plurality, wherein said automatically transmitting is only performed for a

selected one of said predefined groups (Paragraphs 0035, 0048. Target group from one or more group

list.).

Chenelle teaches of transmitting said message over said wireless connection to the set of wireless

communication devices but not specifically automatically transmitting in response to a new application

being made available at the server, wherein said automatically transmitting is conditional upon said new

application being added to a group of applications associated with the selected one of said predefined

groups of wireless communication devices.

Shimakawa teaches of automatically transmitting a message indicating a new application in

response to the new application being made available at a server (col. 6, lines 51-59; col. 9, lines 3-5, 16-

21, 52-61; col. 10, lines 3-9).

It would have been obvious to one of ordinary skill in the art at the time the invention was made

to combine the teachings to automatically transmit a message indicating a new application in response to

the new application being made available at a server. The motivation for the suggested combination is

that Shimakawa's teachings would improve Chenelle's teachings by simplifying user interaction and

providing timely notification of new applications.

Zhou teaches of transmitting notification to a set of wireless communication devices that is

conditional upon a new application being added to a group of applications associated with selected one of

said predefined groups of wireless communication devices (Paragraphs 0015, 0017, 0021, 0024, 0026).

It would have been obvious to one of ordinary skill in the art at the time the invention was made

to combine the teachings for said automatically transmitting to the set of wireless communication devices

to be conditional upon said new application being added to a group of applications associated with the

selected one of said predefined groups of wireless communication devices. The motivation for the suggested combination is that Zhou's teachings would improve the suggested system by providing intelligence management and distribution of software.

As per claim 9, Chenelle teaches substantially the invention as claimed including a server comprising a processor and memory in communication with said processor storing machine-executable code adapting said server to:

transmit a message over a wireless connection to a set of wireless communications devices indicating that said new application is available (Paragraph 0031. Laptops. Paragraphs 0048-0049. Notification to client computers in group indicating a new program. Paragraph 0035. Programs on management computer.),

wherein said set of wireless communications devices is one of a plurality of predefined groups of multiple wireless communications device in communication with said server, said one predefined group being selected from said plurality, wherein said automatically transmitting is only performed for selected ones of said predefined groups (Paragraphs 0035, 0048. Target group from one or more group list.).

Chenelle teaches of transmitting said message over said wireless connection to the set of wireless communication devices but not specifically automatically transmitting in response to a new application being made available at the server, wherein said automatically transmitting is conditional upon said new application being added to a group of applications associated with the selected one of said predefined groups of wireless communication devices.

Shimakawa teaches of automatically transmitting a message indicating a new application in response to the new application being made available at a server (col. 6, lines 51-59; col. 9, lines 3-5, 16-21, 52-61; col. 10, lines 3-9).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to automatically transmit a message indicating a new application in response to the new application being made available at a server. The motivation for the suggested combination is that Shimakawa's teachings would improve Chenelle's teachings by simplifying user interaction and providing timely notification of new applications.

Zhou teaches of transmitting notification to a set of wireless communication devices that is conditional upon a new application being added to a group of applications associated with selected one of said predefined groups of wireless communication devices (Paragraphs 0015, 0017, 0021, 0024, 0026).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for said automatically transmitting to the set of wireless communication devices to be conditional upon said new application being added to a group of applications associated with the selected one of said predefined groups of wireless communication devices. The motivation for the suggested combination is that Zhou's teachings would improve the suggested system by providing intelligence management and distribution of software.

As per claim 17, Chenelle teaches substantially the invention as claimed including a non-transitory machine-readable medium storing machine-executable code, which upon execution by a processor of a computing device, causes said device to:

transmit a message over a wireless connection to a set of wireless communications devices indicating that said new application is available (Paragraph 0031. Laptops. Paragraphs 0048-0049. Notification to client computers in group indicating a new program. Paragraph 0035. Programs on management computer.),

wherein said set of wireless communications devices is one of a plurality of predefined groups of multiple wireless communications device in communication with said server, said one predefined group

being selected from said plurality, wherein said automatically transmitting is only performed for selected one of said predefined groups (Paragraphs 0035, 0048. Target group from one or more group list.).

Chenelle teaches of transmitting said message over said wireless connection to the set of wireless communication devices but not specifically automatically transmitting in response to a new application being made available at a server, wherein said automatically transmitting is conditional upon said new application being added to a group of applications associated with the selected one of said predefined groups of wireless communication devices.

Shimakawa teaches of automatically transmitting a message indicating a new application in response to the new application being made available at a server (col. 6, lines 51-59; col. 9, lines 3-5, 16-21, 52-61; col. 10, lines 3-9).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to automatically transmit a message indicating a new application in response to the new application being made available at a server. The motivation for the suggested combination is that Shimakawa's teachings would improve Chenelle's teachings by simplifying user interaction and providing timely notification of new applications.

Zhou teaches of transmitting notification to a set of wireless communication devices that is conditional upon a new application being added to a group of applications associated with selected one of said predefined groups of wireless communication devices (Paragraphs 0015, 0017, 0021, 0024, 0026).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for said automatically transmitting to the set of wireless communication devices to be conditional upon said new application being added to a group of applications associated with the selected one of said predefined groups of wireless communication devices. The motivation for the suggested combination is that Zhou's teachings would improve the suggested system by providing intelligence management and distribution of software.

As per claim 25, Chenelle teaches the method of claim 1, wherein said one predefined group of wireless communication devices is associated with a group of applications (Paragraph 0041). Chenelle does not specifically teach said transmitting is conditional upon said new application being added to said group of applications.

Zhou teaches of a predefined group of wireless communication devices associated with a group of applications and transmitting notification that is conditional upon a new application being added to a group of applications (Paragraphs 0015, 0017, 0021, 0024, 0026).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for said predefined group of devices to be associated with a group of applications and for the transmitting to be conditional upon a new application being added to a group of applications. The motivation for the suggested combination is that Zhou's teachings would improve the suggested system by providing intelligence management and distribution of software.

As per claim 26, Chenelle, Shimakawa, and Zhou teach the non-transitory machine-readable medium of claim 17. Chenelle further teaches wherein said computing device is said server (Paragraph 0033. Server.).

As per claim 27, Chenelle, Shimakawa, and Zhou teach the method of claim 1. Chenelle teaches wherein one predefined group is unselected such that said automatically transmitting is not performed said unselected group (Paragraphs 0030. Enterprise systems and departments. Paragraphs 0048, 0050. Notification sent to targeted group.).

As per claim 28, Chenelle, Shimakawa, and Zhou teach the method of claim 1. Chenelle teaches wherein each predefined group of said plurality of predefined groups of multiple wireless communications devices represents wireless communications devices allocated to employees of a distinct department of a business enterprise (Paragraphs 0048-0049. Members of group list associated with department. Software for a department.) and wherein the applications in said first group of applications are all related to one of the distinct departments of said business enterprise (Paragraph 0041. Programs for departments, e.g. marketing and manufacturing.).

As per claim 29, Chenelle, Shimakawa, and Zhou teach the server of claim 9. Chenelle teaches wherein one predefined group of said plurality is unselected such that said automatically transmitting is not performed for said unselected group (Paragraphs 0030. Enterprise systems and departments. Paragraphs 0048, 0050. Notification sent to targeted group.).

As per claim 30, Chenelle, Shimakawa, and Zhou teach the server of claim 9. Chenelle teaches wherein each predefined group of said plurality of predefined groups of multiple wireless communications devices represents wireless communications devices allocated to employees of a distinct department of a business enterprise (Paragraphs 0048-0049. Members of group list associated with department. Software for a department.) and wherein the applications in said first group of applications are all related to one of the distinct departments of said business enterprise (Paragraph 0041. Programs for departments, e.g. marketing and manufacturing.).

As per claim 31, Chenelle, Shimakawa, and Zhou teach the non-transitory machine-readable medium of claim 17. Chenelle teaches wherein one predefined group of said plurality is unselected such

that said automatically transmitting is not performed for said unselected group (Paragraphs 0030.

Enterprise systems and departments. Paragraphs 0048, 0050. Notification sent to targeted group.).

As per claim 32, Chenelle, Shimakawa, and Zhou teach the non-transitory machine-readable

medium of claim 17. Chenelle teaches wherein each predefined group of said plurality of predefined

groups of multiple wireless communications devices represents wireless communications devices

allocated to employees of a distinct department of a business enterprise (Paragraphs 0048-0049.

Members of group list associated with department. Software for a department.) and wherein the

applications in said first group of applications are all related to one of the distinct departments of said

business enterprise (Paragraph 0041. Programs for departments, e.g. marketing and manufacturing.).

Claims 7, 15, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chenelle, in

view of Shimakawa, Zhou, and Mayer, US Publication No. 2005/0055687 (Mayer hereinafter).

As per claim 7, Chenelle does not specifically teach the method of claim 1 wherein said message

is an eXtenstible Markup Language (XML) message.

Mayer teaches of transmitting notifications in XML (Paragraph 0007).

It would have been obvious to one of ordinary skill in the art at the time the invention was made

to combine the teachings for the message to be an XML message. The motivation for the suggested

combination is that Mayer's teachings would improve the suggested system by providing the message in a

common format that may be understood by different devices and applications. Furthermore, Mayer's

teachings would enable generic notification of updates of different applications (Paragraphs 0011-0012).

As per claim 15, Chenelle does not specifically teach the server of claim 9 wherein said message

is an eXtenstible Markup Language (XML) message.

Mayer teaches of transmitting notifications in XML (Paragraph 0007).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the message to be an XML message. The motivation for the suggested combination is that Mayer's teachings would improve the suggested system by providing the message in a common format that may be understood by different devices and applications. Furthermore, Mayer's teachings would enable generic notification of updates of different applications (Paragraphs 0011-0012).

As per claim 23, Chenelle does not specifically teach the non-transitory machine-readable medium of claim 17 wherein said message is an eXtenstible Markup Language (XML) message.

Mayer teaches of transmitting notifications in XML (Paragraph 0007).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the message to be an XML message. The motivation for the suggested combination is that Mayer's teachings would improve the suggested system by providing the message in a common format that may be understood by different devices and applications. Furthermore, Mayer's teachings would enable generic notification of updates of different applications (Paragraphs 0011-0012).

Claims 8, 16, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chenelle, in view of Shimkawa, Zhou, and Hofmeister et al. US Publication No. 2005/0154759 (Hofmeister hereinafter).

As per claim 8, Chenelle does not specifically teach the method of claim 1 wherein said message includes a list of applications presently available to said set of wireless communications devices.

Hofmeister teaches of automatically transmitting a message comprising a list of applications presently available to a set of wireless communications devices (Paragraph 0083).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the message to include a list of applications presently available to a set of wireless communications devices. The motivation for the suggested combination is that Hofmeister's teachings would improve the suggested system by allowing a user to conveniently browse applications and provide information for an expedited search.

As per claim 16, Chenelle does not specifically teach the server of claim 9 wherein said message includes a list of applications presently available to said set of wireless communications devices.

Hofmeister teaches of automatically transmitting a message comprising a list of applications presently available to a set of wireless communications devices (Paragraph 0083).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the message to include a list of applications presently available to a set of wireless communications devices. The motivation for the suggested combination is that Hofmeister's teachings would improve the suggested system by allowing a user to conveniently browse applications and provide information for an expedited search.

As per claim 24, Chenelle does not specifically teach the non-transitory machine-readable medium of claim 17 wherein said message includes a list of applications presently available to said set of wireless communications devices.

Hofmeister teaches of automatically transmitting a message comprising a list of applications presently available to a set of wireless communications devices (Paragraph 0083).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the message to include a list of applications presently available to a set of wireless communications devices. The motivation for the suggested combination is that Hofmeister's

teachings would improve the suggested system by allowing a user to conveniently browse applications

and provide information for an expedited search.

Conclusion

Examiner has cited particular sections from the reference(s) that are applied to the claims. While

the sections are cited for convenience and are representative of the teachings of the prior art(s), other

sections of the reference(s) may be relevant and applicable to the claims. It is respectfully requested that

Applicant fully consider the reference(s) in its entirety when responding to the Office action.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set

forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from

the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing

date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH

shortened statutory period, then the shortened statutory period will expire on the date the advisory action

is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX

MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should

be directed to Joshua Joo whose telephone number is 571 272-3966. The examiner can normally be

reached on Monday to Friday 7:30AM to 4:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Andrew Caldwell can be reached on 571 272-3868. The fax phone number for the organization where

this application or proceeding is assigned 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joshua Joo/
Primary Examiner, Art Unit 2445